The stranger at your gate

Herbert H. Humphrey, Jr.

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THE STRANGER AT OUR GATE

— America's Immigration Policy —

BY HUBERT H. HUMPHREY, JR.

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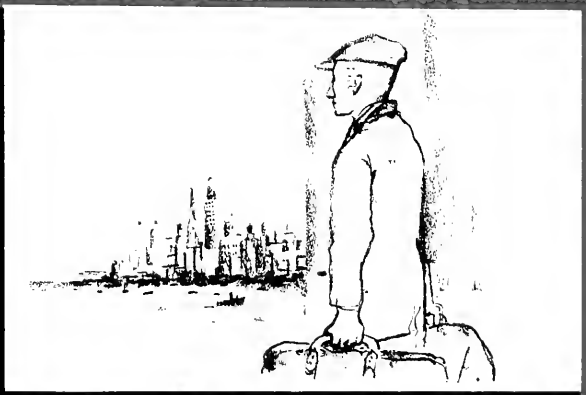

ORGANIZATIONS AND GROUPS will differ widely in their special concern with immigration policy. The number of possible immigrants of the Catholic and Protestant faiths, for example, is so vast that the need cannot be dealt with effectively by action by this country alone. The Jewish immigration potential, on the other hand, has been drastically curtailed by the decimation of the European Jewish community, the absorption of hundreds of thousands of Jews by the State of Israel, and the ban on migration from the Iron Curtain countries. But whatever the specific interest of particular groups may be, there are overriding reasons which make our immigration laws of crucial importance to all Americans. Immigration policy shapes the pattern for our dealings with other people. It helps form thinking and action on our relationships to persons whose race or creed or national origin may differ from our own. Our procedures relating to naturalization and deportation touch the very heart of the problem of civil liberties.

These are some of the considerations which have led the American Jewish Congress to cooperate with the Public Affairs Committee in the publication of Senator Humphrey's pamphlet. We believe it fills a significant public need, for the wise community is an informed one.

DR. ISRAEL GOLDSTEIN
PRESIDENT,
AMERICAN JEWISH CONGRESS

THE PUBLIC AFFAIRS COMMITTEE

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THE STRANGER AT OUR GATE

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IMMIGRATION LAWS crystallize and express a society's basic human values, for they deal with our relationship to people other than our immediate neighbors. In a sense, they may be said to codify our prejudices or our freedom from prejudice. They reveal how our actual practices correspond with our professed ideals. A nation's immigration policy is thus an index of its strength, wisdom, and morality. Our immigration laws recall the biblical admonition to "Love ye therefore the stranger: for ye were strangers in the land of Egypt." (Deuteronomy 11:19). It is well to remember that at one time we or our ancestors were all immigrants to this country.

From the beginning of our history those who founded the United States recognized a national need not merely to tolerate immigration but to encourage it; not alone to admit those who were wealthy or skilled, but in the words of George Washington, to give haven to "the oppressed and persecuted of all Nations and Religions."

Indeed, one of the reasons announced in the Declaration of Independence for the American Revolution against England was the British effort to impede free immigration into the colonies. In the first years of our Republic we deliberately sought to stimulate im-

migration. We needed help to build our industries and to assist in the development and expansion of our frontiers. The wisdom of this policy is now manifest everywhere in our land. Refreshed by a constant stream of new settlers with new ideas and new imagination, and with fresh yearning for freedom, we have erected a vast industrial network and created a democratic community. James Madison's predictions at the Constitutional Convention of 1787 have been confirmed: "that part of America which has encouraged them [the foreigners] has advanced more rapidly in population, agriculture, and the 'arts.'"

Abandoning Our Traditional Welcome

Not until 1882 did we depart from our original policy of unimpeded immigration. Then, under the influence of ideas similar to those expressed earlier by the Nativist and Know-Nothing movement, we permitted for the first time bars against the entry of an immigrant class because of its race. Between 1882 and 1924 we did a complete about-face in our immigration policies.

At first Chinese alone were excluded. But the categories of excludables were swiftly expanded. In 1917, after three different Presidents had vetoed a similar measure, Congress enacted a literacy test for admission aimed at shutting off entry of the so-called "new" immigrants from southern and eastern Europe. The 1917 law also established the notorious "Barred Zone" provision, sealing off immigration from most of the Orient. When, in turn, these devices were found insufficiently restrictive, they were supplemented by the rigid quota plans of 1921 and 1924 which represented the final hardening of a national anti-immigration mood into a national policy. The basic principles of the 1924 law without the Oriental exclusion provisions were re-enacted in the McCarran-Walter Immigration Act of 1952.

Since the 1880's, arguments for a more humane and generous immigration law have largely gone unheard. Despite the contributions to our national economy and our national culture made by our immigrant populations, despite their energy, their creativeness, and their industry, despite the crying need for charity and generos-

ity in the face of the growth of oppressive European totalitarianisms, it has nevertheless become increasingly difficult to persuade Congress of the need for an immigration law premised on reasoned hospitality.

The Price We Paid

Our immigration laws represent the face we turn to the rest of the world. Other nations may be impressed by our strength but they will not be impressed with our humanity as long as our immigration policy enacts or reflects hostility toward strangers.

It is a profound error to regard immigration as a one-way street—as an area in which the benefits all flow one way. All competent observers agree that the very diversity of the peoples who have made up our immigrant population has been crucially responsible for enriching our culture. American democracy has no simple genealogy. Its family tree is not easily traced. It reaches back into the most varied of backgrounds. Our history is in a real sense a history of many peoples.

Immigration Contributed To America's Greatness

Our economic progress has been advanced and secured by the efforts of large numbers of immigrants who came to this country in the latter part of the 19th and the early part of the 20th century in time to construct the mines, the railroads, the farms, the canals, and the highway systems which now abound in our land. The immigrants came to this country to lend their muscles and their energies to the creation of a new, better, and more prosperous community, one in which they would earn and deserve their rightful place. It is a matter of history that in the long period of unrestricted immigration the number of new immigrants rose during periods of prosperity but automatically and of itself dwindled in depression.

The liberal immigration policy of our early years was of critical importance in the development of our industrial and technological strength. The rich diversity of traditions and cultures it introduced into the United States contributed to an acceptance and understanding of ethnic differences. Our early immigration laws were a source of hope and a model for the world; they were a symbol of the sympathy and goodwill that free men can extend to each other.

All this being so, why then has it been so difficult to get a similarly liberal immigration law enacted in recent years?

FIVE MYTHS OF IMMIGRATION

IN THE FIRST PLACE, immigration laws are not easy to understand. Few citizens or Congressmen have time to digest the mass of scientific and historial material required for an appreciation of the problems in this field. The McCarran-Walter Act runs to 302 pages, and is virtually unreadable by anyone except an expert.

In addition, certain persistent myths have become widely accepted as facts. They almost always turn up in discussions in this area and they account for some of our undemocratic immigration policies. These myths are:

1. Rigid laws are needed to prevent the country from being flooded with immigrants.
2. Immigration threatens American living standards.
3. Certain races or nationalities are undesirable.
4. Immigrants do not make good citizens.
5. There isn't room for many more people here.

Not one of the five assumptions can be supported by statistics, science, or history. Let's look at them:

Myth No. 1: Rigid laws are needed to prevent the country from being flooded with immigrants.

If that is so, why haven't millions, eligible under immigration laws, migrated from Canada and South America which are exempt from quota limitations? The fact is that most people cling to familiar soil or well-known pavements. They will suffer poverty or endure dictatorship rather than turn from friends and relatives to start afresh in a strange country where a strange language is spoken. We do not know how many people from southeastern Europe would come to our shores if allowed to do so. But it is interesting to remember that even when immigration from Europe was unlimited—which no one proposes today—the highest average annual immigration, in ratio to the total United States population, was only 1.28 per cent of our population for the decade 1840-1850. This peak figure certainly does not represent a tidal wave.

Myth No. 2: Immigration threatens American living standards.

Organized labor, which is sensitive to any attack on living standards, has tossed this myth into the ashcan. Leaders of both the American Federation of Labor and the Congress of Industrial Organizations opposed the McCarran-Walter Act and argued for a liberalized immigration policy. Labor has learned that immigration normally creates more jobs and increases the national wealth. Millions of native Americans earn good livings from industries founded or developed by immigrants. The type for this pamphlet (and for practically every newspaper, magazine, and book published in the United States) was set at low cost on the linotype machine invented by Otto Mergenthaler, an immigrant from Germany. Other immigrants gave us the typewriter, the telephone, the electric elevator, the blast furnace, the oil refining process, and many other sources of wealth.

Recent immigrants have brought old world skills and technical processes with them. Judah Lifszyc, a Polish scientist, had a secret process for producing clear dextrose syrup. He opened a factory in Wenatchee, Washington, cooperatively owned by some 700 farmers, which is producing 30 tons of syrup daily from surplus wheat and potatoes that used to be dumped. Refugees from Amsterdam created high-paid jobs for Americans when they moved the center of the world's diamond industry to New York City.

Immigrants are consumers as well as workers and producers. The more consumers, the more capital investment and the more employment. During the great period of immigration, from 1870 to 1930, the population increased about three times, but the number of jobs—despite widespread adoption of labor-saving machinery and techniques—increased about four times.

Myth No. 3: Certain races or nationalities are undesirable.

Like the old belief that the world is flat, this myth has been hard to dispel. As recently as a generation ago a few scientists still clung to the idea that certain people were inherently or biologically in-

ferior, but today not a single competent authority accepts the theory of superior and inferior peoples. Dr. Margaret Mead, the distinguished anthropologist, says "all human beings from all groups of people have the same potentialities." The concept of inferior peoples, she adds, "is artificial, and cuts off good ancestors for our great-great-grandchildren." Dr. Ralph L. Beals, former president of the American Anthropological Association, comments: "All scientific evidence indicates that all peoples are inherently capable of acquiring or adapting to our civilization. Upon this point of view the American Anthropological Association has unanimously endorsed an official statement by its executive board."

There will be marked individual differences, of course, in any national group. There will be idiots and geniuses, scoundrels and statesmen, weaklings and Samsons. But the average person, whether he be an Eskimo or an Ecuadorean or a resident of Easton, Pennsylvania, is the same fellow the whole world over. He has the same innate ability to compose a great symphony, invent a better mousetrap, or develop a spineless artichoke. And there's the same risk that he may abuse his dog, yell at telephone operators, or pilfer the poorbox.

Myth No. 4: Immigrants do not make good citizens.

The Scots were once rated as poor timber for citizenship and for decades it was widely believed that the Irish could never become good Americans. History has shown otherwise. The slurs against recent immigrants have no more validity.

Again and again it has been demonstrated that the foreign-born commit proportionately fewer crimes than the native Americans. E. H. Sutherland, an authority on criminology, found in 1933 that 536 native whites per 100,000 were committed to prisons of all types as against only 402 foreign-born whites. The sons and daughters of immigrants contribute more to delinquency than the foreign-born.

Home ownership is a good index of adjustment to a new environment. The 1940 census showed that proportionately more foreign-born people own homes than native whites.

Recent immigrants have made rich contributions not only to industry and science but also to music, literature, drama, and art. Over the years the foreign-born have changed our eating habits. What would our diet be without occasional opportunities to sample ravioli, chile con carne, blintzes, shish kebab, sukiyaki, and crepes suzettes?

Myth No. 5: There isn't room for many more people here.

There is plenty of room and plenty of need for them. Representative Harrison Gray Otis of Massachusetts was wide of the mark when he declared: "When this country was new it might have been good policy to admit all. But it is so no longer."

Mr. Otis was speaking in 1797.

In 1950 the United States had 51 persons per square mile. Compare this with 480 in Great Britain and 807 in Belgium. How large a population could be comfortably supported cannot be forecast exactly, but the experience of the past fifty years shows that the limit is not yet in sight.

Some experts predict that at the present small rate of immigration the population will reach a peak of about 190,000,000 in 1975.

OUR PERMANENT IMMIGRATION LAWS

Our permanent immigration laws were codified in June, 1952, when the Congress enacted, over President Truman's veto, the McCarran-Walter Immigration and Nationality Act (Public Law 414). This new act is the first comprehensive revision of our immigration statutes ever attempted.

The law has some good features. It was sensible to make an orderly codification of the many haphazard and piecemeal laws on immigration and naturalization. It was wise to remove the long-standing prohibition against citizenship for Japanese and other Asian aliens. It was encouraging to permit the entry, for the first time since 1917, of Asians who were formerly ineligible for permanent residence, although only a handful were allowed to come.

While the new law takes these steps forward, in the opinion of many authorities it takes other steps backward. It has been argued that it reaffirms and even strengthens the racist provisions of the old laws, that it rates northern and western Europeans as superior people, and that it classifies southern and eastern Europeans, Asians, and Africans as inferior.

Few of our federal laws are based on racial prejudice. Critics of the new law assert that none results in more serious racial discrimination than our new 1952 immigration act. They point to the fact that the peoples whom they claim have been classified as inferior have been outspoken in their resentment.

Northern and western European countries have been scarcely less bitter. Visitors and seamen from England, France, Norway, Denmark, Sweden, and other western European states complained that the new law requires that they undergo complicated loyalty checks as if they were potential criminals. The world's leading scientists have, in some cases, been reluctant to arrange international conventions in the United States lest their delegates suffer needless insult.

Reports from abroad indicate that the McCarran-Walter Act is intensifying the ill-will toward the United States that stemmed from previous immigration laws. The hundreds of millions of dollars we are spending to cultivate allies will be at least partly offset if our immigration law implies that most of the world's people are not good enough to live in the United States. You can't call a man inferior and then expect him to be on your side.

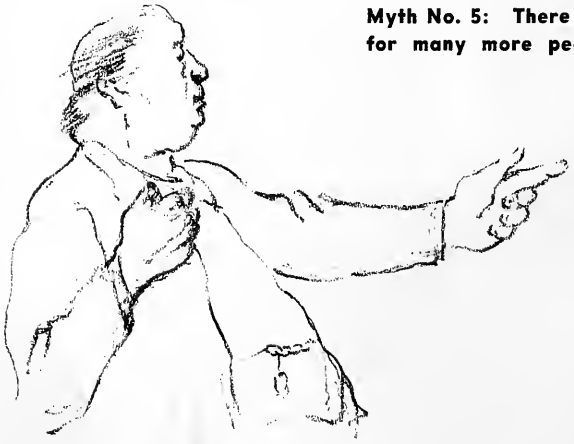
Why should the United States care whether other nations like or dislike us? That was the attitude of some of our Congressmen when the 1924 immigration law was drafted. A clause excluding Japanese was debated. The Japanese embassy warned that the proposed law would weaken the democratic forces in Japan and give the militarists the anti-American ammunition they were looking for. Secretary of State Hughes agreed and urged Congress not to "affront a friendly nation." But the insult was voted. The Japanese militarists strengthened their grip. Seventeen years later they considered themselves strong enough to attack Pearl Harbor.

This doesn't mean that the 1924 immigration law was the direct cause of the Pearl Harbor raid. But our international rudeness may have been one factor contributing to the build-up of the Japanese war parties. To a far greater extent than most Americans think, other nations judge us by our immigration laws.

THE NATIONAL ORIGINS QUOTA SYSTEM

The major target of our restrictive immigration policy was southern and eastern European immigration. Bias against immigration from this area grew rapidly as the influx of northern and western Europeans slackened. For some years Americans who regarded Italians, Greeks, Poles, Hungarians, Russians, and their neighboring peoples as inferior looked for a way to make discrimination against this group effective. They found it in the National Origins Quota System, first written into the 1924 immigration act.

The National Origins Quota System lies at the heart of the McCarran-Walter Act. The quota for any given nationality is determined by finding out what proportion that nationality contributed, by birth or descent, to the total American population of 1920 — a



Myth No. 5: There isn't room for many more people here.

most difficult statistical problem — and then applying this percentage to the total quota of 154,000. The result of this system is that about five-sixths of the over-all quota goes to northern and western countries of Europe, while one-sixth goes to the southern and eastern European countries. For example, Great Britain is entitled to send 65,361 persons a year; Germany, 25,814; and Greece only 308.

The quota system is in some measure supplemented by the issuance of immigration visas outside the quota system, but these are granted mainly to immigrants who are the children or spouses of citizens or to persons born in Canada or Latin America.

Most of the quotas of the favored countries are wasted because their citizens don't wish to emigrate. From 1930 to 1944 the northern and western nations used on the average only 17 per cent of their quotas. The total authorized quota ceiling for the 28-year period from 1925 to 1952 is 4,362,354. Of this, a total of only 1,923,509 was used. In other words, 56 per cent of the quota has been wasted.

In the southern and eastern countries qualified applicants for visas must wait years—and sometimes more than a lifetime—to be considered. Displaced persons admitted to the United States in the postwar years were charged against one-half of their countries' quotas for

future years. By this plan, the quota for Greece has been reduced 50 per cent until the year 2013; for Yugoslavia until 2114; for Estonia until 2146, and for Latvia until 2274.

The National Origins Quota System would appear to be a futile attempt to turn the clock back a hundred years and restore the immigration pattern of the mid-19th century. The purpose—to discriminate against southern and eastern Europeans—was publicly acknowledged when the system was devised in 1924, and many feel that it was reaffirmed in 1952 by the Senate Judiciary Committee, which wrote the McCarran-Walter Act. A slight relaxation of the National Origins Quota System had been proposed in order that unused quota numbers might be redistributed to countries that wanted them. The change was rejected because—"To distribute the unused quotas on the basis of the registered demand would shift more quota numbers to the countries of southern and eastern Europe."

Individual Congressmen were even more candid in the debate. One member said that although he was not a follower of Hitler's theory of racial origins, "there is something to it."

"I believe," he continued, "that possibly statistics would show that the western European races have made the best citizens in America and are more easily made into Americans."

The Congress of 1924 at least used the most recent census figures on the national origins of the population. Knowing that the percentage of southern and eastern Europeans had increased since 1920, the framers of the McCarran-Walter Act refused to accept 1950 census figures for the national quotas. The 1920 census is still used as the base, and only the white population is included in the calculations. By the 1952 act, the annual quota of any country is fixed at one-sixth of 1 per cent of the number of inhabitants in continental United States in 1920 of that national origin.

Quotas based on one-sixth of 1 per cent of the 1920 white population are much smaller than they would be if they were based on the same percentage of the 1950 population. A nation that has increased its population 43 per cent in thirty years is thus restricting its immigration out of all proportion to its capacity to absorb new

people. Instead of being a law to regulate immigration in the wisest and most humane manner, the McCarran-Walter Act thus becomes primarily a stop sign.

Discrimination Against Asiatics

Sponsors of the new law have argued that the law does not discriminate. They point out that small quotas have been assigned to Asian countries for the first time and that Japanese may now become United States citizens. But what offends Asian peoples and those Americans who find prejudice repugnant is the broad use of a relatively new device for discrimination. The McCarran-Walter Act endorses the fiction that there is a huge geographical area inhabitated by inferior peoples. This area, called the Asia-Pacific triangle, is defined as including every country that is wholly situated north of the 25th parallel of south latitude and between 60 degrees east and 165 degrees west longitude. Immigration of persons born in countries wholly situated in this area is sharply restricted. Except for slightly higher quotas for China and Japan, not more than 100 persons a year may ever enter from any of the countries in this zone. The 25th parallel bisects Australia; the 60th meridian is on the eastern edge of Iran and 165 degrees west longitude is just west of the Aleutian Islands.

The McCarran-Walter Act not only discriminates against every person born within this vast triangle, which includes the populations of Afghanistan, Burma, China, Indonesia, Japan, Korea, India, and the Pacific Islands, but also discriminates against those born elsewhere if half of their ancestry can be traced to the triangle. The law says that any prospective immigrant "born outside the Asia-Pacific triangle who is attributable by as much as one-half of his ancestry" to peoples within the triangle shall be chargeable to the annual quota of 100 for the Asia-Pacific triangle or, in certain cases, to the token quotas of 100 for Asian countries.

Thus the English-born son of an English father and an Indian mother cannot use the liberal English quota. He would have to wait at least a decade or so under India's quota of 100.

The code of racial prejudice twists like a cowpath. To keep out Italians, Greeks, Turks, and Slavs, the McCarran-Walter Act relies on place of birth, not the ancestry of the applicant. To keep out Asians, the law ignores place of birth and relies on ancestry. For both groups, however, the law consistently ignores individual worth.

The Immigration and Naturalization Act of 1952 brings racial prejudice to our front door by penalizing, for the first time in the history of our immigration laws, the predominantly Negro population of the British West Indies. Immigrants from these colonies formerly were permitted to enter without restriction under the liberal quota of the mother country, and at the most about 2,500 did so each year. The new law sets a limit of 100 for each colony or dependent area that may be charged to the quota of the governing country. This limitation has been denounced by the colonial legislatures, by newspapers, and by West Indian leaders. They have pointed out that there are no quotas for the neighboring states of Cuba, Haiti, and the Dominican Republic.

There would appear to be no explanation that squares with American traditions. During debates on this measure in the House, one of the authors of the bill announced that the reason for this provision is that the St. Thomas Labor Conference in the Virgin Islands and the Virgin Islands Civic Association had written the House Immigration Sub-Committee urging the new limitation as a means of "protecting" those islands from large migrations from Jamaica. This hardly appears to be a sufficient justification for so grievous a discrimination against colored immigrants. In the minds of most people this provision looks like an expression of anti-Negro prejudice.

BARRING THE GATE

In practical effect our immigration code keeps many deserving people out of the United States even when the quotas for their countries are still unused. One way in which this has long been done is by giving authority to consular officials abroad to bar visa applicants if for one reason or another those applicants are believed to

lack the qualifications established in the immigration laws. The discretion of subordinate officials on these matters is virtually absolute since there is now no way to prosecute an administrative appeal or to secure judicial review of an adverse decision regardless of its accuracy.

Thus, persons of adequate means may be excluded if they "in the opinion of the consular officer or the attorney general are likely at any time to become a public charge." An unfavorable determination of a consular official may be right or wrong, but under this provision a wrong opinion would bar the immigrant just as surely and just as completely as a correct one. An American citizen can challenge the decision of a customs official who tries to prevent him from importing a sack of beans but he cannot appeal the ruling of a consul who prevents him from bringing in his mother or any other person whose admission he wishes to facilitate.

Also barred is any applicant who the consular officer or Attorney General "has reason to believe" might "incidentally" engage in activities "prejudicial" to the United States. This loose language could conceivably be used to keep out almost anybody. A member of the British parliament, resolutely anti-Communist but also critical of United States actions in the United Nations, could be denied a visa because a consular official feared that he might express his differences with American policy on the lecture platform.

Our present immigration law excludes persons convicted of two or more nonpolitical crimes with sentences totaling five years. This provision gives foreign courts the power to screen our immigrants. It even means accepting the verdicts of totalitarian courts that operate under laws alien to our concepts. Thus, the Belgian war bride of an American airman has not been allowed to enter the United States because, as a slave laborer for the Nazis, she was convicted of falsifying documents to get food ration tickets.

While the victims of Fascist courts are excluded, the ex-Fascists themselves get two advantages under the new act and, although once barred along with Communists, they now are eligible for admission. First, the present law provides that former members of totalitarian

parties may qualify if they terminated their membership five years earlier and have since opposed the party's ideology. This test is relatively easy to meet since the Nazi-Fascist parties which we fought in World War II technically went out of existence more than five years ago, and since the State Department has ruled that a former member need not prove affirmatively that he opposed such a totalitarian program for the last five years but merely prove that he did not advocate it. Secondly, the present law includes a definition of "totalitarian" which restricts the term to those who have advocated a dictatorial rule "in the United States," a phrase which has been interpreted by the State and Justice Departments as inapplicable to the Nazi and Fascist parties.

The 1952 Immigration Act further removed foreign professors from the non-quota status which traditionally they had enjoyed. It subjected their entry to the red tape and delay of obtaining a regular quota visa or of securing a preference quota visa as one whose presence is "needed urgently" in the United States. This change reflects a fear of ideas and a lack of confidence in the ability of our universities to select only well-qualified persons for their teaching staffs.

A Medieval Punishment

A case can be made for deporting a person who used fraud to enter the United States. But many competent critics feel that the McCarran-Walter Act unnecessarily goes to the extreme length of deporting immigrants for minor reasons, even when no law of the United States has been violated.

The new law makes it easier to deport an alien who is suspected of having become a public charge within five years of entry. Under the old law, the government had to prove the alien was in fact a public charge. But the McCarran-Walter Act permits deportation if in the "opinion" of the Attorney General (and, realistically, an immigration inspector) the alien is such a charge.

Similarly immigration officers are given authority to decide whether an alien committed to a mental hospital is suffering from a condition that developed in the United States or in the country from which he came. Experienced psychiatrists often find it hard to tell when mental diseases began. But the alien is nonetheless required to prove conclusively that his mental sickness began after a certain date.

Deportation is also made an extra penalty for violation of the alien registration law, which carries stiff penalties of its own. An alien can be deported if he neglects to notify the Attorney General of a change of address within ten days and if the Attorney General does not think the oversight excusable.

Membership — at any time after entry — in an organization required to register under the McCarran Internal Security Act is made a ground for deportation. The publication of lists of subversive groups is a relatively new device. Many good Americans and many good immigrants innocently joined, ten, fifteen, or twenty years ago, "front" organizations that have since been declared subversive. There is no penalty whatever for comparable membership by native citizens but aliens may be deported even though they may have long since rejected the organization and the principles it represents. The failure of this section of the law to recognize repudiation of totalitarian beliefs denies us the association and support of many persons who are today more firmly welded to democratic beliefs.

This feature of the new law introduces for the first time in American history a system of retroactive punishment for aliens.

The United States Constitution prohibits *ex post facto* laws. But this has been held applicable only to criminal cases and the Supreme Court has ruled that deportation is not technically criminal punishment, although in many respects it is admittedly harsher and severer. Deportation punishes not only the alien but also his wife and children who in fact may be citizens. This situation has long been recognized in our immigration code which has always included some provision for relief in hardship cases. The possibility that injury may be worked on innocent parties, however, is intensified under the 1952 Act which sharply restricts the grounds for suspension of deportation and establishes almost impossible conditions for the adjustment of the status of an alien no matter how worthy his claim.

Moreover, the McCarran-Walter Act does much to deprive resident aliens from ever attaining a feeling of security. The new law prescribes deportation *at any time* if it is discovered that the immigrant should have been excluded originally because of his race, nationality, politics, or anything else. There is no statute of limitations as long as

he is unnaturalized. An alien who has been a model resident for twenty-five or thirty years is no safer than the person who arrived last month. Indeed, the long-time resident's position is worse. There may have been nothing fraudulent in his case, but how can he find witnesses so many years later to help establish his innocence? And if witnesses are found, how can they be positive in their recollection? That is why every crime save murder has a statute of limitations.

Much is rightly said about the immigrant's responsibility to his new country. More should be said about America's responsibility as a host to newcomers. Pulling up roots from foreign soil and moving a family to the United States is an enterprise that demands courage, vision, and money. The average immigrant family plans, sacrifices, and saves for months and years to fulfill its dream. When the family reaches American soil, there is no overnight indoctrination in United States laws and customs. Our language, our cities, our people, and our concepts cannot be assimilated in a couple of years.

What the immigrant needs is time to get settled and to learn about the United States. He should have friendly help during this period.

SECOND-CLASS CITIZENSHIP

Chief Justice Marshall wrote that a naturalized citizen becomes "a member of the society, possessing all the rights of a native citizen and standing, in the view of the Constitution, on the footing of a native. The Constitution does not authorize Congress to enlarge or abridge those rights."

An immigrant who obtained his citizenship through fraud should, of course, be deprived of it. But if citizenship was fairly won, there should be no strings attached.

Although native Americans may live abroad until they die without losing their citizenship, the new law terminates the citizenship of any naturalized American who is absent anywhere abroad for five years or more. This provision was aimed particularly at Jews who left the United States to help develop Palestine. The drafters of the bill which ultimately became the Nationality Act of 1940 had not

thought of including this provision until after receiving testimony from an official of the State Department. The enactment of this section of the law seems largely attributable to his observation that "it will be desirable to put in a provision to cover each person who goes to a third country. The principal cases we have, I may say, are these scientists that are principally Russian and German Jews who have been naturalized in this country and later went to Palestine. We have other cases but I mean that there are more of that particular body than in any other category." Thus, Ezra Pound, who broadcast for Mussolini during the war, is still an American citizen—but a naturalized citizen who spent more than five years in Israel or Germany would lose his citizenship.

Second-class citizenship is humiliating to the naturalized immigrant, unbecoming to our democratic tradition, and hurtful to the nation. The person who knows he is getting an unfair deal cannot serve his country as well as the citizen who is treated fairly.

Any American citizen who helped the Russians in their campaign to alienate our friends would be denounced in Congress for subversion and hustled off to jail. Yet there are many who feel that the McCarran-Walter Act has gratuitously placed a powerful propaganda weapon in the hands of the Russians, and the Russians are making the most of it. Philip M. Hauser, professor of sociology at the University of Chicago and former acting director of the Census Bureau, reported after a long stay in the Orient:

> Public Law 414 (the McCarran-Walter Act) is well known to the peoples of the world and it is not favorably known. It does untold damage to the United States in creating attitudes of distrust and hostility. . . .It is absurd to think that we can retain our position as the world leader in the fight for freedom and democracy with the peoples whom we explicitly and openly brand in our legislation as undesirable and inferior. . . . We have unwittingly placed into the hands of the ruthless, adroit and unscrupulous propagandists of the U.S.S.R. a major weapon with which to attack us. . . . The U.S.S.R. is skillfully and continuously making the most of our ethnic and racist doctrines as promulgated in Public Law 414.

Professor Hauser's opinion is supported by the first-hand observations of many other experts. Our new immigration law has created resentment and hatred not only in Asia but also in Africa, in the Caribbean, in Latin America and, of course, in Italy and Greece.

The mistrust of non-Americans that is manifested in the new law is one reason why international scientific congresses are keeping clear of our shores. The International Congress of Psychology will be held in Canada, not the United States, in 1954, to avoid any embarrassment to delegates who might be refused visas. The International Congress of Genetics decided that Italy and Canada would be more hospitable than the United States for its next two meetings. The International Astronomical Union and other important scientific groups have likewise turned down invitations to America. Leading American scientists are gravely concerned about their foreign colleagues' boycott.

Congress has been alert to catch even the slightest flaws in the Voice of America program. Many citizens of other nations do not hear the Voice of America broadcasts because the McCarran-Walter Act speaks so loudly.

HOW ABOUT THE REDS?

Some good Americans, admitting that the McCarran-Walter Act is marked with racial bias and other defects, say that a tough law is essential to keep out Communist agents.

No American could object if the provisions of the Act had a reasonable relationship to our national security. But the McCarran-Walter Act gives no more protection against Communist immigration than a more equitable and less discriminatory law would give.

The National Origins Quota System certainly is no safeguard against Communists. Neither is the Asia-Pacific triangle. And France, the western nation with the heaviest proportion of Communists, enjoys a fairly liberal immigration quota under the McCarran-Walter Act.

Moreover, those who pushed hardest for the adoption of the present act seemingly show little concern with the influx of illegal

migrants from Mexico and Canada. Communists could easily, if they so wished, bypass our consular officers by sneaking across the line from Canada and Mexico, as hundreds of thousands of persons do every year. No real effort has been made to stop them.

Gladwin Hill, the New York *Times* correspondent, reported in January, 1953, that an estimated 1,500,000 Mexican "wetbacks" entered the United States in 1952 without the formality of tipping their hats to an immigration officer. This illegal immigration was about ten times greater than the 154,000 persons allowed from Europe and Asia by the McCarran-Walter Act.

Why hasn't Congress cracked down on the vast, illegal migration from Mexico? Because, Mr. Hill says, farm owners want cheap Mexican labor.

No good American opposes statutes designed to protect us from invasion by agents of a foreign power or by those bent upon espionage or subversion. The McCarran-Walter Act, however, cannot be justified or explained in these terms. Its most restrictive and unfair provisions bear no relation whatever to considerations of internal security. Many devoted Americans believe that attempts by the sponsors and authors of the McCarran-Walter Act to masquerade the discriminatory provisions of the laws as a protection against Communist infiltration into the country represents an effort to exploit anti-Communist feelings for purposes totally unrelated to our security.

A NEW LAW?

The United States has an unparalleled opportunity to write a good immigration law — a law based on common sense and decency, with no taint of racial prejudice.

Four circumstances make this an ideal time to erase the prejudice we have been writing into our immigration laws since 1882:

First, the general condemnation of the unfortunate provisions of the McCarran-Walter Act by national organizations of all kinds, by leading newspapers, by foreign experts and government officials. Among the organizations that have advocated basic changes are the National Council of the Churches of Christ in the U.S.A., the Nat-

ional Catholic Welfare Conference, the National Council of Catholic Men, the National Council of Catholic Women, the National Lutheran Council, the Protestant Episcopal Church, the Baptist World Alliance, the Synagogue Council of America, the National Community Relations Advisory Council, the American Jewish Congress, the Congress of Industrial Organizations, the American Association for the Advancement of Science, the American Friends Service Committee, the Young Womens Christian Association, the American Hellenic Educational Progressive Association, the Federation of American Scientists, the American Academy of Arts and Sciences, the American Jewish Committee, and the National Federation of Settlements.

Second, the report of the President's Commission on Immigration and Naturalization, appointed by President Truman, which investigated the McCarran-Walter Act and recommended a substitute that would square with American tradition and American requirements.

Third, President Eisenhower's criticism of the 1952 Act.

Fourth, the introduction in the first session of the 83rd Congress of an omnibus immigration and naturalization bill to supplant and replace the McCarran-Walter Immigration Act.

The President's Commission

The President's Commission, headed by former Solicitor General Philip B. Perlman, was appointed September 4, 1952, at the request of every major religious faith in the country. The members included Earl G. Harrison, former commissioner of immigration; Monsignor John O'Grady, secretary, National Conference of Catholic Charities; the Reverend Thaddeus F. Gullixson, president, Lutheran Theological Seminary of St. Paul, Minnesota; Clarence E. Pickett, honorary secretary, American Friends Service Committee; Adrian S. Fisher, legal advisor to the State Department, and Thomas G. Finucane, chairman, Board of Immigration Appeals, Department of Justice.

The commission held hearings in eleven cities from coast to coast. About 400 persons testified and 234 others submitted written statements. "It is fair to say that approval of the new law was voiced by comparatively few, and that in practically all such instances the fav-

orable opinions were not supported by factual information," the commission said in its report, *Whom We shall Welcome.* Some of the conclusions were:

> The commission believes that although immigrants need the United States, it is also true that the United States needs immigrants, not only for its domestic or foreign benefit, but also to retain, reinvigorate, and strengthen the American spirit.
>
> The commission believes that we cannot be true to the democratic faith of our own Declaration of Independence in the equality of all men, and at the same time pass immigration laws which discriminate among people because of national origin, race, color, or creed. We cannot continue to bask in the glory of an ancient and honorable tradition of providing haven to the oppressed, and belie that tradition by ignoble and ungenerous immigration laws. We cannot develop an effective foreign policy if our immigration laws negate our role of world leadership. We cannot defend civil rights in principle, and deny them in our immigration laws and practice. We cannot boast of our magnificent system of law, and enact immigration legislation which violates decent principles of legal protection . . .
>
> The commission believes that laws which fail to reflect the American spirit must sooner or later disappear from the statute books.
>
> The commission believes that our present immigration law should be completely rewritten.

Presidential Criticisms of the McCarran-Walter Act

The need for extensive revision of the McCarran-Walter Act is in no way a partisan political issue. This is evident from the statements made by both Democratic and Republican presidents. In a speech during his campaign in Newark, New Jersey on October 17, 1952, General Eisenhower said:

> A new immigration law was certainly needed. . . . We should have had, and we must get, a better law than this McCarran Act. . . . Obviously, there must be limits to the number of immigrants this country can or should absorb. We must develop a system of limitation in line with our concept of America as the great melting pot

> of free spirits, drawn here from all the nations . . . Ladies and gentlemen, the McCarran Immigration Law must be rewritten.
>
> A better law must be written that will strike an intelligent balance between the immigration welfare of America and the prayerful hopes of the unhappy and the oppressed.

After becoming President, Mr. Eisenhower emphasized this position in his State of the Union Message on February 2, 1953:

> It is a manifest right of our Government to limit the number of immigrants our nation can absorb. It is also a manifest right of our Government to set reasonable requirements on the character and the number of people who come to share our land and our freedom.
>
> It is well for us, however, to remind ourselves occasionally of an equally manifest fact; we are — one and all — immigrants or the sons and daughters of immigrants. Existing legislation contains injustices. It does, in fact, discriminate. I am informed by members of Congress that it was realized, at the time of enactment, that future study of the proper basis of determining quotas would be necessary.
>
> I am therefore requesting the Congress to review this legislation and to enact a statute which will at one and the same time guard our legitimate national interest and be faithful to our basic ideas of . . . fairness to all.

Similarly President Truman in vetoing the McCarran-Walter Act on June 25, 1952, declared:

> A general revision and modernization of these laws unquestionably is needed and long overdue, particularly with respect to immigration. But this bill would not provide us with an immigration policy adequate for the present world situation. Indeed, the bill, taking all its provisions together, would be a step backward and not a step forward. . . . (this legislation) would perpetuate injustices of long standing against many other nations of the world, hamper the efforts we are making to rally the men of the east and west alike to the cause of freedom, and intensify the repressive and inhumane aspects of our immigration procedures. The price is too high and, in good conscience, I cannot agree to pay it.

The imperative need for thoroughgoing amendment of the McCarran-Walter Act has been acknowledged by thinking Americans of every political background, by both Republican and Democratic national administrations. It represents a challenge to be met by the common action of all the American people, no matter what their party affiliation.

PROPOSALS

Many proposals have been made. The recommendations of the President's Commission and the suggestions made by major civic and religious organizations in testimonies before legislative committees in large part have been embodied in an omnibus immigration and naturalization bill which was introduced during the last days of the first session of the 83rd Congress by a group of eight Senators and twenty-four members of the House of Representatives. Intended as a more equitable substitute for the present permanent immigration law, the new bill proposes the following fundamental changes:

1. *Creation of a single independent government agency with full responsibility and jurisdiction over immigration and naturalization.* This new agency, to be called the Immigration and Naturalization Commission, would be charged with the application, administration, and enforcement of national immigration and naturalization policies.

2. *Issuance of visas to all qualified applicants throughout the world without regard to national origin.* This means replacing the National Origins Quota System. The new plan for the first time would place all immigration for permanent residents, including that from the Western Hemisphere, within the framework of a liberal quota system which would be completely nondiscriminatory.

3. *Establishment of an annual immigration quota of* 1/6 *of* 1 *per cent of our national population as reported by the most recent decennial census.* This formula applied to the 1950 census would permit annual immigration of approximately 251,000. A definite quota ceiling would thus be firmly fixed. Immigrants would then be admitted on the basis of need and our own national welfare.

This would be achieved by creating a system of priorities within the "first-come, first-served" plan.

These priorities would be created to encourage (a) reunification of families; (b) asylum for the persecuted; (c) haven for refugees and displaced persons; (d) preference for persons with specially needed skills.

In addition, a basic percentage of the total annual immigration would be allocated for a fifth group, persons who represent new and self-initiated immigration, with arrangements to insure that their group would represent peoples of varied cultural and ethnic background. Thus our native culture would be constantly refreshed by the introduction of peoples with new points of view and new insights.

4. *Curtailed use of deportation as a punishment.* It is proposed to establish statutes of limitations requiring that deportation proceedings must be commenced within ten years of the act which constitutes the ground for deportation. Moreover, if an alien has lived in the United States for twenty years or more he is to be protected against deportation just as a citizen is.

5. *Elimination of present insupportable distinctions between native-born and naturalized citizens.* Citizenship acquired by naturalization could be revoked only on the grounds of fraud perpetrated in acquiring it. In the proposed bill no act which a native-born citizen can perform with impunity can serve as a ground for revocation of citizenship of a naturalized American. Residence abroad is eliminated as a ground for revoking citizenship acquired by naturalization.

6. *Creation of machinery for appeal from the decisions of visa officers abroad.* At present neither the applicant nor his friends or relatives in the United States can appeal if a consular officer abroad refuses a visa on the basis of unfounded suspicions.

7. *Modification of unduly harsh restrictions.* The proposed measure would recognize the possibilities of reform and change of heart both for political error and for single acts of minor crime, such as stealing a loaf of bread. Aliens would be judged for purposes of admission and of deportation on the basis of their character and record rather than on the basis of long-past and isolated incidents.

There is also before Congress at this time a less comprehensive bill (S. 2545) designed to eliminate some of the most glaring defects in the present immigration code. These proposed amendments include:

1. Restoration of professors to non-quota status;
2. The pooling of unused quotas;
3. Repeal of the "mortgage" on quotas as required by the Displaced Persons Act;
4. Abolition of the "Asia-Pacific Triangle"; and
5. Creation of a Visa Review Board.

CONCLUSION

No doubt other immigration proposals will be introduced during the next few years to achieve many of these same reforms. Bills have been introduced to minimize the discriminatory features of the national origins system by pooling immigration quotas and assigning them on the basis of need and national interest. No matter which of these measures ultimately becomes law, one thing appears certain: a basic rethinking of our present inflexible and restrictive immigration policies is necessary to bring our immigration practices into accord with our democratic aspirations. Ill-conceived and bigoted immigration laws have been a blemish on our record of democratic achievement. The immigration laws of any society both reflect and shape its fundamental character. Freedom of movement, both in emigration and immigration, have long been acknowledged as among the most fundamental of human freedoms; it is the hallmark of totalitarianism that it seeks rigidly to limit the free movement of people. It seeks to deny to its own subjects the freedom to live elsewhere. It seeks to deny to others access to its soil or contact with its peoples. Conversely, the very essence of democracy is that people remain free to choose where and in which country they wish to live and build their future. It is essential that so fundamental and significant an area of American life and law as immigration be revised so that bigotry may give way to knowledge, and expediency to the justice of humanitarianism.

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